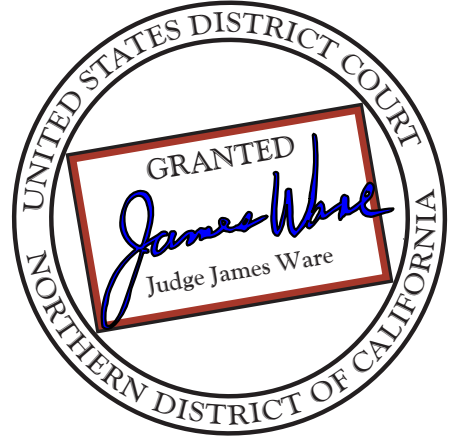


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7 [Additional counsel listed on signature page]

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 SOUTHEASTERN PENNSYLVANIA
12 TRANSPORTATION AUTHORITY,
13 Derivatively on Behalf of Nominal Defendant
14 NETWORK APPLIANCE, INC.,

15 Plaintiff,

16 v.

17 DANIEL J. WARMENHOVEN, JEFFRY R.
18 ALLEN, CAROL A. BARTZ, M. HELEN
19 BRADLEY, ALAN L. EARHART, STEVEN
20 GOMO, DAVID HITZ, JAMES K. LAU,
21 MARK LESLIE, THOMAS F. MENDOZA,
22 NICHOLAS G. MOORE, SACHIO
23 SEMMOTO, GEORGE T. SHAHEEN,
24 CHARLES E. SIMMONS, DONALD T.
25 VALENTINE and ROBERT T. WALL,

26 Defendants,

27 and,

28 NETWORK APPLIANCE, INC.,

Nominal Defendant.

Case No. C06-06486 JW

**PLAINTIFFS SEPTA AND CHOU'S
APPLICATION FOR ORDER
SHORTENING TIME TO HEAR
PLAINTIFFS' MOTION TO
CONSOLIDATE CASES**

Case No. C06-06506 JW

1 TING CHOU, Derivatively on Behalf of
2 Nominal Defendant NETWORK APPLIANCE,
INC.,

3 Plaintiff,

4 v.

5 DANIEL J. WARMENHOVEN, JEFFRY R.
6 ALLEN, CAROL A. BARTZ, M. HELEN
BRADLEY, ALAN L. EARHART, STEVEN
7 GOMO, DAVID HITZ, JAMES K. LAU,
MARK LESLIE, THOMAS F. MENDOZA,
8 NICHOLAS G. MOORE, SACHIO
SEMMOTO, GEORGE T. SHAHEEN,
9 CHARLES E. SIMMONS, DONALD T.
VALENTINE and ROBERT T. WALL,

10 Defendants,

11 and,

12 NETWORK APPLIANCE, INC.,

13 Nominal Defendant.
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Pursuant to Local Rule 6-1, Plaintiffs Southeastern Pennsylvania Transportation Authority ("SEPTA") and Ting Chou ("Plaintiffs") hereby apply for an Order Shortening Time for their Motion to Consolidate Cases (*SEPTA v. Warmenhoven, et al* C06-6486 JW and *Chou v. Warmenhoven, et al* C06-6506 JW), filed concurrently with this Application. The attached declaration of Kathryn A. Schofield demonstrates that shortened time is appropriate because the Motion to Consolidate should be heard concurrently with the Motion for the Appointment of Lead Plaintiff, Lead Counsel and Liaison Counsel ("Lead Plaintiff Motion") and the Case Management Conference, both calendared for January 8, 2007.

Any interested parties have been given ample notice of the parties' intention to consolidate these two cases. All parties in both cases, through their counsel, stipulated to consolidation, and filed that stipulation with the Court on November 28, 2006. Therefore, the parties' intention to consolidate the two cases has been in the public record for almost a month, without any subsequent objection or opposition. Moreover, Plaintiffs' November 14, 2006 Lead Plaintiff Motion is unopposed. Accordingly, Plaintiffs do not anticipate any opposition to their Motion to Consolidate. Moreover, Defendants do not oppose this application for shortened time. In light of the judicial efficiencies of hearing the Motion to Consolidate and the Lead Plaintiff Motion on the same schedule, and the pre-existing consolidation stipulation, shortened time is appropriate in this instance.

Dated: December 21, 2006

BRAMSON, PLUTZIK, MAHLER & BIRKHAUSER, LLP

/s/

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**DECLARATION OF KATHRYN A. SCHOFIELD IN SUPPORT OF APPLICATION FOR
ORDER CONTINUING CLASS CERTIFICATION SCHEDULE**

I, Kathryn A. Schofield declare:

1. I am an attorney admitted to practice before the courts of this State and am an attorney with the law firm of Bramson, Plutzik, Mahler & Birkhaeuser LLP, attorneys of record for Plaintiffs in the *Southeastern Pennsylvania Transportation Authority* ("SEPTA") and *Chou* actions.

2. *SEPTA* and *Chou* are derivative actions. *SEPTA v. Warmenhoven, et al* (C06-6486 JW) was filed on October 17, 2006 and *Chou v. Warmenhoven, et al* (C06-6506 JW) was filed on October 18, 2006.

3. Shortened time is appropriate in this instance because the Motion to Consolidate should be heard concurrently with the November 14, 2006 Motion for the Appointment of Lead Plaintiffs, Lead Counsel and Liaison Counsel ("Lead Plaintiff Motion") and the Case Management Conference, both calendared for January 8, 2007. If consolidation is not resolved at that time, then the Court will not be able to calendar the Consolidated Amended Complaint and any subsequent Motion to Dismiss or Answer.

4. All parties in both cases, through their counsel, stipulated to consolidation, and filed that stipulation with the Court on November 28, 2006. Therefore, the parties' intention to consolidate the two cases has been in the public record for almost a month, without any subsequent objection or opposition.

5. Plaintiffs' Lead Plaintiff Motion is unopposed. Accordingly, Plaintiffs do not anticipate any opposition to their Motion to Consolidate. Nor do Plaintiffs anticipate any prejudice to anyone occurring if the Motion to Consolidate is heard on shortened time.

6. I have spoken with counsel for Defendants and advised him of Plaintiffs' request for shortened time on their Motion to Consolidate. Opposing Counsel does not oppose Plaintiffs' Motion to Consolidate being heard on shortened time.

7. Attached is a proposed order granting the application. On behalf of Plaintiffs, I respectfully request that the Court set the following briefing and hearing schedule:

/ / /

Opposition Brief: December 29, 2007

Reply Brief : January 2, 2007

Hearing: January 8, 2007 at 9:00 a.m.

If no Opposition is filed, then Plaintiffs will request that the Court decide the matter at the Case Management Conference on January 8, 2007.

8. The undersigned hereby certifies that the Application for Order Shortening Time is made in good faith and for good cause.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 21st day of December, 2006, at Walnut Creek, California.

/s/

Kathryn A. Schofield

****ORDER****

Having considered Plaintiffs SEPTA and Chou's Application for an Order Shortening Time on their Motion to Consolidate, and finding good cause therefor,

IT IS HEREBY ORDERED that Plaintiffs' Motion to Consolidate and related briefing is scheduled as follows:

Opposition Brief: December 29, 2007

Reply Brief: January 2, 2007

Hearing: January 8, 2007 at 9:00 a.m.

IT IS SO ORDERED.

DATED: December 27, 2006


THE HONORABLE JAMES WARE
UNITED STATES DISTRICT COURT JUDGE